



Agenda Date: 12/05/03  
Agenda Item: IV A8

## STATE OF NEW JERSEY

**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
[www.bpu.state.nj.us](http://www.bpu.state.nj.us)

### TELECOMMUNICATIONS

IN THE MATTER OF THE JOINT APPLICATION OF	)	<u>ORDER APPROVING</u>
VERIZON NEW JERSEY INC. AND TELERGY	)	<u>INTERCONNECTION</u>
MIDATLANTIC LLC FOR APPROVAL OF AN ADOPTION	)	<u>AGREEMENT</u>
OF AN INTERCONNECTION AGREEMENT UNDER	)	
SECTION 252 OF THE TELECOMMUNICATIONS ACT	)	
OF 1996	)	DOCKET NO. TO01030152

(SERVICE LIST ATTACHED)

BY THE BOARD:

By letter dated March 7, 2001, Verizon New Jersey Inc. (Verizon), and Telergy MidAtlantic LLC (Telergy MidAtlantic), (individually, a Party, and jointly, the Parties), pursuant to Section 252(e) of the Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, (codified in scattered sections of 47 U.S.C. §151 et seq.) (the Act), submitted to the Board of Public Utilities (Board) a joint application (Application) for approval of a certain negotiated interconnection agreement dated October 30, 2000 (Agreement).

Telergy MidAtlantic has exercised its rights under Section 252(i) of the Act to opt into an interconnection agreement previously approved by the Board between Verizon and AT&T Communications of New Jersey, Inc. BPU Docket Nos. TO96070519 & TO96070523 (December 22, 1997).

The Agreement sets forth the terms, conditions and prices under which Verizon will offer and provide access to unbundled network elements, ancillary services, and wholesale telecommunications services available for resale to Telergy MidAtlantic. The Agreement is in effect and thereafter as noted in the Agreement, continues in full force and effect unless terminated as provided in the Agreement.

The Division of the Ratepayer Advocate (Advocate) has raised objections to certain provisions of the Agreement. Consistent with prior Board Orders, the Board declines to make modifications to the Agreement. See Order I/M/O the Joint Application of Verizon New Jersey, Inc. and Ernest Communications, Inc. For Approval of an Interconnection Agreement Under Section 252(e) of the Telecommunications Act of 1996, Docket No. TO02050287, dated September 18, 2002.

Pursuant to 47 U.S.C. §252(a)(1), an incumbent LEC may negotiate and enter into a binding interconnection agreement with a carrier requesting interconnection, service or network elements. In addition, 47 U.S.C. §252(e)(1) requires approval by the Board of any interconnection agreement adopted by negotiation or arbitration, and further requires the Board to approve or reject the Agreement, with written findings as to any deficiencies. The Act provides that the Board may reject a negotiated agreement only if it finds that: (i) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity. [47 U.S.C. §252(e)(2)(A)].

The Board's review of the Agreement and the record in this matter indicates that the Agreement is consistent with the public interest, convenience and necessity, and that the Agreement does not discriminate against telecommunications carriers not parties to the Agreement. Therefore, the Board FINDS that the Agreement meets the standards set forth in the Act, and HEREBY APPROVES the Agreement as presented by the Parties. This approval should not be construed as preapproval of any future petitions for rate recovery of costs incurred pursuant to the Agreement, nor shall the Board be bound by provisions within the Agreement regarding the confidentiality of information.

The Board notes that amendments or modifications to Board approved interconnection agreements are subject to Board review and approval. No agreement shall be read, nor does the Board believe the Parties to the Agreement intend that it be read, to limit the authority of the Board under Section 252(e) of the Act to review interconnection agreements. Accordingly, until and unless otherwise provided by the Board, subsequent amendments or modifications to the Agreement approved herein shall be subject to review and approval by the Board.

DATED: 12/10/03

BOARD OF PUBLIC UTILITIES  
BY:

signed \_\_\_\_\_  
JEANNE M. FOX  
PRESIDENT

signed \_\_\_\_\_  
FREDERICK F. BUTLER  
COMMISSIONER

signed \_\_\_\_\_  
CAROL J. MURPHY  
COMMISSIONER

signed \_\_\_\_\_  
CONNIE O. HUGHES  
COMMISSIONER

signed \_\_\_\_\_  
JACK ALTER  
COMMISSIONER

ATTEST:

signed  
  
KRISTI IZZO  
SECRETARY